

North Hill, April 2013

# Update: North Hill trial

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The Johnson Golf vs. the Town of Duxbury et al lawsuit has been in court for 13 days at Middlesex Superior Court in Woburn as Johnson Golf Management, Inc., seeks damages over alleged violations of the law by the Town of Duxbury in the bidding process and award of a new management contract for the North Hill Golf Course in December 2008 and January 2009.

The trial was originally expected to go to the jury on

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Friday, April 17, but because of the city-wide lockdown during the manhunt for one of the suspects in the Boston Marathon bombings, Middlesex Superior Court was closed on Friday and the trial resumed Monday morning, with the trial going to jury Tuesday afternoon.

The plaintiff, Johnson Golf Management, Inc., called eight witnesses to the stand to testify on the process of selecting and awarding the new management contract to a new management company. The defense, the Town of Duxbury, called one expert witness to the stand. In a civil trial, the burden of proof is placed on the plaintiff. The standard of proof is either proof by a preponderance of the evidence, meaning one side has more evidence in its favor than the other, or proof by clear and convincing evidence. Both are lower burdens of proof than beyond a reasonable doubt.

The trial began on Wednesday, April 3, at 9 a.m. with jury selection. Attorney Stephen Follansbee represents Johnson Golf management and Attorney Leonard Kesten and Duxbury's current Town Counsel Arthur Kreiger represent the

town of Duxbury.

Last Wednesday, the session resumed with Kesten's cross examination of Johnson. Kesten's questions focused on the tee-time changes proposed by Johnson, as well as membership fee increases and the impact of Johnson's financial decisions on the town. With regard to the original request for proposals for the new contract, Johnson testified that he believed his company was the only qualified bidder. Johnson said he believes there was a conspiracy against him to not award him the new contract to manage the North Hill golf course. Another issue touched upon by both attorneys was problems with the evaluations in the second bidding process.

After Johnson's testimony ended, former selectwoman Betsy Sullivan took the stand. Sullivan was on the board of selectmen for three terms, from 2002-2011 and said she vaguely remembered discussing the change in tee times with Johnson Golf. Sullivan said she also had a vague memory of a controversy in 2004. During the cross examination, Sullivan said she believed the complaints about the tee time changes were "trivial" compared to the various town items she was concerned with.

Former selectman Chris Donato took the stand after Sullivan's testimony ended on Wednesday and court was put in recess until Thursday morning, when Kesten cross-examined Donato. As Donato's testimony wrapped up on Thursday, the town called in their expert, Kevin Hines, a certified public accountant who had reviewed the financial report given to the court early last week. Attorney Evan Ouellette walked through the reviewed report with Hines, highlighting various differences between Hines' report and Morrissey's report. Overall, Hine's report shows an approximate difference between the reports to be \$175,000.

Monday saw the completion of the testimony of Kevin Hines, Duxbury's financial expert and reading of some deposition testimony into the record for the jury's benefit. On Tuesday both Follansbee and Kesten gave their closing statements, after which Judge Desmond charged the jury and gave them their instructions. As of press time, the jury had not come to a decision.

Please visit the Clipper Web site for updates on the North Hill trial.